

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1369**

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**Introduced by Senator Maldonado**

February 21, 2006

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An act to amend Sections 655.6 and 1288 of the Business and Professions Code, relating to clinical laboratories.

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, as amended, Maldonado. Clinical laboratories: anatomic pathology services.

Existing law provides that it is unlawful for certain health care professionals to charge, bill, or otherwise solicit payment from any patient, client, customer, or ~~third-party~~ *3rd party* payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by the person or under his or her direct supervision. Existing law also requires clinical laboratories performing cytologic examinations of gynecologic slides to directly bill either the patient or the responsible ~~third-party~~ *3rd party* payer for the cytology services rendered by the laboratory, except as specified. A violation of these provisions is a crime.

This bill would instead make it unlawful for those health care professionals to charge, bill, or otherwise solicit payment from any patient, client, customer, or ~~third-party~~ *3rd party* payer for

~~professional assessment and interpretation of anatomic pathology services, as defined, on samples specimens originating in California, as defined, if those services were not actually rendered by the person or under his or her direct supervision. The bill would also require clinical laboratories providing professional assessment and interpretation of anatomic pathology services to directly bill either the patient, the responsible third-party 3rd party payer, or the requesting hospital or clinic for those services, except as specified.~~

Existing law allows clinical laboratories to accept assignments to perform tests only from licensed health care providers.

This bill would require *licensed* persons ordering tests to ~~provide include~~ accurate billing information ~~or the means to get that information if a third party is to be billed to enable the laboratory to bill the patient or responsible 3rd party payer, when the laboratory is required to directly bill for its services.~~

Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 655.6 of the Business and Professions
- 2 Code is amended to read:
- 3 655.6. (a) It is unlawful for any person licensed under this
- 4 division or under any initiative act referred to in this division to
- 5 charge, bill, or otherwise solicit payment from any patient, client,
- 6 customer, or third-party payer ~~for professional assessment and~~
- 7 ~~interpretation of anatomic pathology services if that professional~~
- 8 ~~assessment and interpretation of those services was were~~ not
- 9 actually rendered by that person or under his or her direct
- 10 supervision.
- 11 (b) (1) Clinical laboratories providing ~~professional assessment~~
- 12 ~~and interpretation of anatomic pathology services on specimens~~

1 originating in California shall directly bill (i) the patient, (ii) the  
 2 insurer or third-party payer responsible for payment of the  
 3 services, or (iii) the hospital, public health clinic, or nonprofit  
 4 health clinic that ordered the ~~professional assessment and~~  
 5 ~~interpretation~~ of anatomic pathology services rendered by those  
 6 laboratories. Clinical laboratories shall not bill the physician and  
 7 surgeon who requests ~~professional assessment and interpretation~~  
 8 of anatomic pathology services, but may bill the physician and  
 9 surgeon who requests only technical preparation of slides. A  
 10 clinical laboratory shall first bill the patient's health care service  
 11 plan or insurer, when it knows or should know that the patient is  
 12 an enrollee of a health care service plan or an insured under a  
 13 health insurance policy, for amounts in excess of any applicable  
 14 copayments, deductibles, or coinsurance. However, if the  
 15 patient's health care service plan or health insurer has denied  
 16 payment of all or part of the claim or failed to pay the claim, the  
 17 clinical lab may bill the patient or a responsible third-party payer.

18 (2) Notwithstanding subdivision (a), it is not unlawful for a  
 19 clinical laboratory to bill for anatomic pathology services that  
 20 were performed by an affiliated clinical laboratory. An "affiliated  
 21 clinical laboratory" means a clinical laboratory that is wholly  
 22 owned by, is the parent company of, or is under common  
 23 ownership with, the clinical laboratory billing for the anatomic  
 24 pathology services. For these purposes, "wholly owned" means  
 25 100 percent ownership directly or through one or more  
 26 subsidiaries, and "common ownership" means 100 percent  
 27 ownership by a common parent company.

28 (3) *Notwithstanding subdivision (a), this section does not*  
 29 *prohibit the billing of a referring laboratory for anatomic*  
 30 *pathology services when a sample must be sent to another*  
 31 *specialist, except that for the purposes of this paragraph*  
 32 *"referring laboratory" does not include a laboratory of a*  
 33 *physician's office or group practice that does not perform the*  
 34 *professional component of the anatomic pathology service*  
 35 *involved.*

36 (c) For the purposes of this section, any person or entity who  
 37 is responsible to pay for anatomic pathology services provided to  
 38 that patient shall be considered a responsible third-party payer.

39 (d) This section shall not apply to any of the following:

1 (1) Any person who, or clinical laboratory that, contracts  
2 directly with a health care service plan licensed pursuant to  
3 Section 1349 of the Health and Safety Code, if services are to be  
4 provided to members of the plan on a prepaid basis.

5 (2) Any person who, or clinic that, provides anatomic  
6 pathology services without charge to the patient, or on a sliding  
7 scale payment basis if the patient's charge for services is  
8 determined by the patient's ability to pay.

9 (3) Health care programs operated by public entities,  
10 including, but not limited to, colleges and universities.

11 (4) Health care programs operated by private educational  
12 institutions to serve the health care needs of their students.

13 (5) Any person who, or clinic that, contracts with an employer  
14 to provide medical services to employees of the employer if the  
15 anatomic pathology services are provided under the contract.

16 (e) For purposes of this section, the term "anatomic pathology  
17 services" means any of the following:

18 (1) Histopathology or surgical pathology, meaning the gross  
19 and microscopic examination of organ tissue performed by a  
20 physician and surgeon or under the supervision of a physician  
21 and surgeon.

22 (2) Cytopathology, meaning the examination of cells, from  
23 fluids, aspirates, washings, brushings, or smears, including the  
24 Pap test examination performed by a physician and surgeon or  
25 under the supervision of a physician and surgeon.

26 (3) Hematology, meaning the microscopic evaluation of bone  
27 marrow aspirates and biopsies performed by a physician and  
28 surgeon, or under the supervision of a physician and surgeon, and  
29 peripheral blood smears when the attending or treating physician  
30 and surgeon or technologist requests that a blood smear be  
31 reviewed by a pathologist.

32 (4) Subcellular pathology and molecular pathology.

33 SEC. 2. Section 1288 of the Business and Professions Code is  
34 amended to read:

35 1288. (a) Any person conducting or operating a clinical  
36 laboratory may accept assignments for tests only from and make  
37 reports only to persons licensed under the provisions of law  
38 relating to the healing arts or their representatives. This section  
39 does not prohibit the acceptance of evaluation specimens for  
40 proficiency testing or referral of specimens or such assignment

1 from one clinical laboratory to another clinical laboratory, either  
2 licensed or exempt under this chapter, providing the report  
3 indicates clearly the laboratory performing the test. A report of  
4 results issuing from a clinical laboratory shall show clearly the  
5 name and address of the laboratory and the name of the director.

6 ~~(b) The licensed persons ordering tests from clinical~~  
7 ~~laboratories pursuant to this section shall include complete and~~  
8 ~~accurate billing information with the test assignments or requests~~  
9 ~~to enable the laboratories to bill the patients or responsible~~  
10 ~~third-party payers whenever any provisions of this chapter or of~~  
11 ~~this code require the performing clinical laboratories to bill the~~  
12 ~~patients or third-party payers directly for any services rendered~~  
13 ~~by those laboratories.~~

14 *(b) The licensed person ordering tests from a clinical*  
15 *laboratory pursuant to this section shall include complete and*  
16 *accurate billing information with the test assignment or request*  
17 *to enable the laboratory to bill the patient or responsible*  
18 *third-party payer whenever any provisions of this chapter or of*  
19 *this code require the performing clinical laboratory to bill the*  
20 *patient or third-party payer directly for any services rendered by*  
21 *the laboratory.*

22 SEC. 3. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the  
27 penalty for a crime or infraction, within the meaning of Section  
28 17556 of the Government Code, or changes the definition of a  
29 crime within the meaning of Section 6 of Article XIII B of the  
30 California Constitution.